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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Administration of the)
North American Numbering Plan)

CC Docket No. 92-237

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation ("MCI"), by its attorneys, respectfully submits these reply comments on the recommendation of the North American Numbering Council ("NANC") for selection of a new telephone numbering administrator under Section 251(e)(1) of the Communications Act.¹

INTRODUCTION

MCI has long supported the need for fair and efficient numbering administration in the competitive telecommunications industry. In this tradition, MCI's opening comments on the Commission's *Public Notice* concurred with the NANC recommendations, including both selection of Lockheed Martin Corporation ("Lockheed Martin") as the North American Numbering Administrator ("NANPA") and the National Exchange Carrier Association ("NECA") as the NANP billing and collection agent.² MCI believes that with the important protections included in the regulations proposed by NANC³—a neutrality cure for NECA in light of its largely ministerial role in cost recovery,⁴ safeguards against price increases in the NANPA functions, and a requirement for the transfer of intellectual property essential to numbering administration—the

¹ See *The North American Numbering Council (NANC) Issues Recommendations on the North American Numbering Plan Administrator, Billing and Collection Agent, and Related Rules: Pleading Cycle Established*, Public Notice, DA 97-1055, CC Docket No. 92-237 (rel. May 19, 1997) ("Public Notice").

² MCI Comments at ii.

³ *Id.* at 4.

⁴ MCI Comments at 19. As MCI cautioned in its opening comments, because NECA's role is confined to ministerial cost recovery functions unrelated to number administration and policy, and because its selection leads to cost savings, this is a unique situation in which MCI can support NECA as the billing and collection agent. This situation is different from the one raised in the Universal Service Fund proceeding where the fund administrator's role is not as confined.

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NANC recommendations will further the public interest in a rapid, pro-competitive transition to competitively neutral, efficient and fair numbering administration model.

Although a number of commenting parties opposed the NANC recommendation of Lockheed Martin, they raise only a limited set of concerns which find little if any support in the carefully crafted record on which NANC based its decision. Furthermore, many of these purported reservations are belied by the protective regulations proposed by NANC, indicating that some parties may be seeking to delay the selection process by obfuscating the real issues involved in selection of a new NANPA. While the Commission clearly has an obligation to exercise its independent judgment, that decision must be enlightened by the counsel of the NANC advisory committee, which represents a fair balance among the many different interests related to numbering administration. Having studied the methods for transitioning from the RBOC and Bellcore-dominated, anticompetitive numbering system inherited from the now-defunct Bell System for more than four years,⁵ the Commission should now conclude this process as rapidly as possible.

DISCUSSION

The limited number of comments submitted in response to the *Public Notice* indicate that the vast majority of interested parties support the NANC's recommendations. Only six entities out of the thousands of industry and consumer parties directly impacted by telephone numbering administration filed comments raising concerns related to the selection of Lockheed Martin as NANPA.⁶ The primary objections voiced by these parties are that Lockheed (1) will be insufficiently staffed to adequately fulfill its NANPA responsibilities,⁷ and (2) will not freely make

⁵ The Commission first initiated a Notice of Inquiry on telephone numbering administration in 1993. *See* MCI Comments at 2, fn. 2.

⁶ AirTouch Communications, Inc. ("AirTouch") Comments at 1; California Public Utilities Commission ("CPUC") Comments at 2; Cellular Telecommunications Industry Association ("CTIA") Comments at 1; Omnipoint Communications Inc. ("Omnipoint") Comments at 3; Personal Communications Industry Association ("PCIA") Comments at 2; Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell ("The Southwestern Companies") Comments at 1. Of these only AirTouch, CTIA, PCIA and the Southwestern Companies specifically encourage the Commission to select Mitretek. AT&T, which opposed selection of Lockheed Martin in the 13-11 NANC vote, indicates that it has no objection to the Commission's adoption of the final NANC recommendation. AT&T Comments at 2.

⁷ *See e.g.*, CPUC Comments at 2; Southwestern Companies Comments at 7.

available intellectual property developed in its role as NANPA to the NANC or a successor NANPA.⁸ These concerns are neither accurate nor compelling.

Lockheed Martin has the technical competence, numbering experience and automated processes to fulfill the NANPA responsibilities. Several commenters contend that Lockheed will not have sufficient staff to discharge the NANPA functions.⁹ This is directly inconsistent with the conclusion of the NANPA Working Group Evaluation Team (“Evaluation Team”), which after lengthy and detailed analysis of the competing proposals, reached a consensus to recommend both Mitretek and Lockheed “as the preferred choices for the new NANP Administrator.”¹⁰ It is inconceivable that the Evaluation Team, which was accurately characterized as the “most informed and knowledgeable body” by the Southwestern Companies,¹¹ would have made such a recommendation if it believed that Lockheed could not fulfill its NANPA obligations. Indeed, the Evaluation Team gave Lockheed a function score, which considered staffing levels, exceeding that of Bellcore, the current NANP Administrator, further demonstrating that Lockheed can adequately fulfill the NANPA responsibilities.¹²

Concerns related to Lockheed’s ability to perform its NANPA activities in a timely, efficient manner are further mitigated because the NANC will be closely monitoring Lockheed’s performance¹³ and if Lockheed fails, or shows indications that it will fail, to fulfill its responsibilities, safeguards exist to quickly remedy the situation. These safeguards include placing

⁸ See e.g., Omnipoint Comments at 3 (“Lockheed’s price does not include intellectual property rights for the systems and software they will use to perform their functions . . .”).

⁹ See e.g., CPUC Comments at 2; Southwestern Companies Comments at 7.

¹⁰ NANPA Working Group Evaluation Team Report to the North American Numbering Council (NANC) at 3.

¹¹ Southwestern Companies Comments at 3 (“The members of the NANP Evaluation Team are clearly the most informed and knowledgeable group of people as to what the job of the new NANPA will entail.”). MCI shares this view.

¹² Lockheed’s function score was 3.810 and Bellcore’s was 3.748. Evaluation Team Report at Appendix C.

¹³ See Proposed Rule 52.12(d). Performance Review Process. “The NANC shall monitor the performance of the NANPA and the B&C Agent. . . . NANPA and the B&C Agent shall develop and implement an internal performance monitoring mechanism and shall provide such performance review on request of the Commission on at least an annual basis. See also Proposed Rule 52.12(e). Termination. If the Commission determines at any time that the NANPA . . . substantially or materially defaults in the performance of its obligations, the Commission shall advise immediately the NANPA . . . of said failure or default, request immediate corrective action, and permit (Footnote continued on next page)

Lockheed on notice that it is not meeting its responsibilities and removing Lockheed as the NANPA.¹⁴ Given Lockheed's desire to serve as the NANPA and as several local number portability administration centers ("NPACs"), it is highly unlikely that Lockheed would risk losing these commercially valuable opportunities through poor performance.

What many of the objecting parties fail to recognize is that the NANC was aware of the potential concern about staffing levels and addressed that concern in its recommendations. The NANC imposed two additional conditions following the Evaluation Team's analysis, regarding intellectual property rights and a fixed price for NANPA services, that alleviate most of the "cons" expressed by the Evaluation Team. The Evaluation Team specifically identified the lack of commitment by Lockheed to freely provide intellectual property developed in its role as NANPA and concerns over staffing as significant concerns.¹⁵ NANC remedied the first of these concerns by proposing regulations that would require the NANPA to freely transfer intellectual property to the NANC or a successor NANPA selectee.¹⁶ Consequently, the objections raised by several commenting parties related to the transfer of intellectual property, which ignore this protective regulation, are unfounded.

The NANC also dealt with potential "understaffing" of the NANP functions by reviewing the competing proposals with respect to automation, centralization and technical support. As MCI noted in its opening comments, the basic difference between the staffing levels proposed by Lockheed Martin and those used by Mitretek arise from Mitretek's relatively decentralized approach to Central Office ("CO") Code administration.¹⁷ A majority of NANC agreed that Lockheed's more streamlined model for numbering administration was workable in the new environment of the

the NANPA . . . reasonable time to correct such failure or default. If the NANPA . . . is unwilling or unable to take corrective action, the Commission may . . . take any action it deems appropriate, including termination."

¹⁴ See Proposed Rule 52.12(e). Termination. "If the Commission determines at any time that the NANPA . . . substantially or materially defaults in the performance of its obligations, the Commission shall advise immediately the NANPA . . . of said failure or default, request immediate corrective action, and permit the NANPA . . . reasonable time to correct such failure or default. If the NANPA . . . is unwilling or unable to take corrective action, the Commission may . . . take any action it deems appropriate, including termination."

¹⁵ Evaluation Team Report at 13.

¹⁶ See Proposed Rules 52.13(f).

¹⁷ MCI Comments at 11-12.

1990s. This is particularly true in light of current industry efforts, encouraged by the Commission and state public utility commissions, to reduce the rate of the exhaust of telephone numbers¹⁸—including rate center consolidation, expanded local calling areas and number pooling—that will dramatically reduce the work demands on the NANPA over the coming years. Thus, it is likely that as such numbering resource conservation methods are implemented, the NANPA work demands will decrease relative to predictions based on the current COCUS studies,¹⁹ meaning that workload projections which do not factor in the impact of these conservation methods could be significantly overstated.²⁰

But there are two basic reasons, as described by the NANC report, why these concerns about Lockheed Martin’s personnel decisions are irrelevant to the Commission’s decision. First, if Lockheed has underestimated the staffing requirements associated with projected NANPA workloads, it must bear the expense, under its fixed-price bid, for adding such staff as may be necessary to satisfactorily discharge its NANP functions. Second, if Lockheed’s staffing proves insufficient because the NANPA workload itself (CO Code assignments, NPA splits, etc.) increases beyond expectations, the NANC recommended “price protection” regulation would similarly require Lockheed Martin to increase its resources, at its own cost, unless the volume of NANP transactions rises by more than 20% over forecasts.²¹ Hence, if Lockheed Martin miscalculated *or* if current industry projections for NANPA numbering volume prove erroneous,

¹⁸ The Carrier Liaison Committee Ad Hoc Committee on NXX Exhaust has identified numerous alternatives for reducing NXX exhaust, including those mentioned in the text, and is currently exploring ways to implement these alternatives.

¹⁹ Central Office Code Utilization Studies (“COCUS”) are conducted periodically by Bellcore, using data obtained by the CO Code administrators from all carriers, to predict NPA exhaust.

²⁰ Furthermore, currently carriers are reluctant to provide forward-looking information regarding numbering needs to CO Code Administrators who are also their competitors. Thus, as a result of incomplete data, COCUS predictions are inherently inaccurate and “jeopardy” conditions, which require more administrator staff time than the ordinary NPA relief process, arise more frequently because exhausts can not be easily predicted. (A jeopardy condition arises when a CO code administrator determines that telephone numbers will run out before a new NPA can be implemented. In these situations, drastic measures typically involving significant public utility commission involvement and CO Code Administrator efforts must be imposed to ration telephone numbers.) With the selection of a neutral administrator, carriers will be more inclined to provide accurate information regarding future numbering resource needs. Thus, exhaust situations can be better planned and jeopardy situations reduced, thereby further reducing staffing needs.

²¹ See Proposed Rule 52.15(d).

both the industry—and eventually end users, to whom numbering costs will ultimately be passed on—are protected by the NANC recommendations.

Although some commenters suggest that NANC inexplicably “reversed” the Evaluation Team’s recommendation, in fact the NANC was able to secure important concessions from Lockheed Martin as to intellectual property and the fixed-price guarantee. *Had the Evaluation Team been in a position to recommend “conditions” similar to those proposed by NANC, the reservations it expressed on these two subjects would have evaporated.* Accordingly, far from overruling the consensus of the Evaluation Team, NANC commendably took its reservations into account in fashioning a final recommendation.

Two other minor points merit discussion. Some parties appear to suggest that the NANC recommendation, based on a close 13-11 vote, does not deserve any deference from the Commission because it was not based on a *consensus* recommendation.²² Unlike most telecommunications industry forums and standards bodies, there is no requirement that a Federal Advisory Committee Act panel reach only consensus recommendations. Furthermore, the NANC was a fair and representative body, carefully selected by the Commission, not dominated by local exchange carriers or any other industry segment. The discussion and final vote selecting Lockheed Martin as the new NANPA represents a balanced decision that deserves the Commission’s most careful consideration. Moreover, although MCI and others strove to achieve consensus within NANC, it is evident from the recorded vote that consensus was not possible. MCI agrees with AT&T, which voted for Mitretek, that the vital need for rapid FCC selection of a replacement for Bellcore far outweighs any interest in producing a “consensus” recommendation to the Commission.²³

In addition, several parties argue that the NANC gave too much weight to the monetary difference between the Lockheed Martin and Mitretek bids. For example, AirTouch, Omnipoint, CPUC and others suggest that the \$22.5 million difference between Mitretek and Lockheed is

²² Mitretek Comments at 3; Communications Venture Services Comments at 1.

²³ AT&T Comments at 2.

insignificant and should not be a factor in the Commission's selection of the new NANPA.²⁴ Yet, as MCI explained, these costs *are* substantial to the larger carriers; MCI alone would be required to pay as much as \$1.5 million of this cost difference over the five-year period for the initial NANPA term. Some entities urging the Commission to disregard financial considerations—based on the principle that the costs will be “spread” over the entire telecommunications industry—might have a different view if, like MCI, they would be liable for far more than the minimum \$100 per year charge for numbering administration cost recovery. MCI believes that costs are important, and that the public interest in an efficient telephone numbering system compels the Commission to select the low-cost provider unless there is a palpable, concrete and overriding defect to its proposal. Lockheed Martin's \$22.5 million savings are not offset by any serious deficiency in its proposal, especially in view of the fixed-price regulation on which the final NANC recommendation was based.

Finally, MCI again urges the Commission to act in this matter with all deliberate speed. Numbering administration has been littered with competitive and fairness concerns for years. As the telecommunications industry rapidly moves toward true local telephone competition, it is simply untenable for the United States to utilize a numbering system, devised under a monopoly model, in which new entrants and other competitive LECs must secure essential numbering resources from their direct competitors. The transition required for transfer of all numbering functions, including CO Code assignment, to the new NANPA is at least 18 months, meaning that unless the Commission acts immediately, it could easily be well into 1999 before a neutral numbering administration system is fully in place. While MCI believes that Lockheed Martin is the best choice, and that the NANC recommendations should be adopted in full, it is vital for the Commission to act promptly in selecting a replacement for Bellcore as NANPA. Delay at this key time in the evolution of an effectively competitive local exchange market will, in the final analysis, cost industry, consumers and the public interest far more than any potential benefit from longer

²⁴ AirTouch Comments at 9.

examination of the relative qualifications for the new North American Numbering Plan Administrator.

CONCLUSION

The Commission should promptly adopt the recommendations of the North American Numbering Council and begin the transition to the new model for number administration by selecting Lockheed Martin to replace Bellcore and the RBOCs.

Respectfully submitted,

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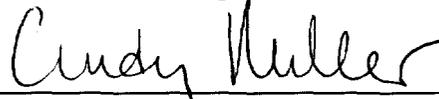
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Dated: July 3, 1997

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